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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/088,727	06/02/1998	MICHAEL FRY	36-1227	2084

7590 12/04/2001

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[REDACTED] EXAMINER

KANG, PAUL H

ART UNIT	PAPER NUMBER
2152	26

DATE MAILED: 12/04/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/088,727	FRY ET AL.
	Examiner Paul H Kang	Art Unit 2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 September 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,4-8,10 and 11 is/are rejected.
- 7) Claim(s) 3 and 9 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 19 September 2001 is: a) approved b) disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

1. Claims 1-11 are pending.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-2, 4-8 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Katseff et al., US Pat. No. 6,075,796.

4. As to claims 1, 6, and 11, Katseff discloses:

a World Wide Web (WWW) server, a client computer, and at least one dynamic proxy server computer (figure 4 and col. 1, line 16 – col. 2, line 55),
said dynamic proxy server computer being located in a communications network such that it is in a communications route intermediate a server computer and a client computer (figure 4, POP 84),

the dynamic proxy server computer being configured to receive data transmitted in a first data format from said server computer, to transform received data to a second data format from said first data format without substantially changing the information content of said data and to transmit the transformed said data to the client computer in said second data format (col. 2, line 19-51 and col. 5, line 63 – col. 6, line 55).

5. As to claims 2 and 8, Katseff teaches a system wherein said data is transmitted from the first server computer to the second server computer using a first transport protocol (UDP) and the transformed data is transmitted from the second server computer to the client using a second transport protocol (TCP) (col. 5, line 63 – col. 6, line 55).

6. As to claims 4 and 7, Katseff teaches the transforming performed by the dynamic proxy server computer is determined by the content of a protocol downloaded from a third server computer (col. 5, line 62 – col. 7, line 29).

7. As to claim 5 and 10, Katseff discloses a system wherein said first server computer is a WWW server (abstract and figure 4).

8. Claims 3 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Applicant's arguments filed September 19, 2001 have been fully considered but they are not persuasive. The applicant argued in substance that "it appears that the Examiner continues to confuse transport protocols. That is, although the Examiner correctly identifies both UDP and TCP as transport protocols, the Examiner seems to equate transmission of given data by successive different transported protocols as somehow involving a 'transformation' of the data being transported. However, that clearly is not the case. If the data is to be transformed, then

there must be a transformation effected at the application level (rather than the lower transport level)... However, UDP and TCP are both transport protocols, i.e., they are used to package data that is passed from the application layer to the transport layer (using the terminology of the OSI model)." Further, in his arguments, the applicant equates "the data" as found in independent claims 1, 6, and 11 to the "PCM encoded audio data."

The limitations argued by the Applicant are not essential to the scope of the prior art and the invention as claimed. Contrary to the Applicant's belief, the Examiner is familiar with the ISO OSI protocol model. However, the Examiner does not believe that the scope of the invention as claimed is distinguished from the data encapsulation, encryption, and other processes performed within the OSI model as taught by the prior art of record. Specifically, when data is transported from a UDP to TCP protocol stack, multiple processes are performed. The data may be translated from one format to another in any of the seven layers of the OSI model including the application layer, presentation layer, and transport layer. The data may be formatted/translated by adding/removing headers, encrypting/decrypting, or segmenting data.

The definiteness of the language employed must be analyzed, not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. Insofar, the claims have been given the broadest reasonable interpretation consistent with the specification and the prior art during the examination of this patent application since the applicant may then amend his claims, the thought being to reduce the possibility that after a patent is granted, the claims may be interpreted as giving broader coverage than is justified. Therefore, applicant's

arguments regarding “PCM encoded audio data” and the various functions of the distinct layers of the OSI model are not given weight as to the patentability of the claimed subject matter.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H Kang whose telephone number is (703) 308-6123. The examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703) 305-4815. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-9731 for regular communications and (703) 305-3900 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Paul H Kang
Examiner
Art Unit 2152

November 30, 2001



MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100